

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Xavier M. Mills, also known as Xavier)	
Marques Mills,)	C/A No. 0:17-2309-MBS
)	
Petitioner,)	
)	
vs.)	
)	ORDER AND OPINION
Sheriff Al Cannon Detention Center,)	
)	
Respondent.)	
_____)	

Petitioner Xavier M. Mills is a pretrial detainee who currently is housed at the Sheriff Al Cannon Detention Center in North Charleston, South Carolina. Petitioner, appearing pro se and in forma pauperis, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241, asserting that he is subject to excessive bail in violation of the Eighth Amendment and denied due process, access to the courts, and a speedy trial in violation of the Fifth Amendment. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling.

The Magistrate Judge reviewed the § 2241 petition pursuant to the Rules Governing 2254 Cases, the Antiterrorism and Effective Death Penalty Act of 1995, and applicable precedents, as well as 28 U.S.C. §§ 1915 and 1915A. The Magistrate Judge observed that Petitioner provided mere conclusory statements in his § 2241 petition, in contravention of Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), and Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007). Accordingly, the Magistrate Judge recommended that the § 2241 petition be summarily dismissed for failure to state a claim upon which relief can be granted. Petitioner filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has

no presumptive weight, and the responsibility for making a final determination remains with this court. Matthews v. Weber, 423 U.S. 261, 270 (1976). This court is charged with making a de novo determination of any portions of the Report to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. Petitioner’s § 2241 petition is summarily dismissed without prejudice and without requiring Respondent to file a return.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

November 13, 2017

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.